



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

January 3, 1994

IN REPLY PLEASE
REFER TO OUR FILE

William F. Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

RECEIVED

FCC - MAIL ROOM

Re: In the Matter of Inquiry into Policies and
Programs to Assure Universal Telephone
Service in a Competitive Market Environment
RM 8388

Dear Secretary Caton:

Enclosed please find an original and four (4) copies of
the Reply Comments of the Pennsylvania Public Utility Commission in
the above-captioned matter.

Sincerely,

Maureen A. Scott
Assistant Counsel

For the Pennsylvania Public
Utility Commission

MAS/ms
Enclosure

cc: Per Certificate of Service

No. of Copies rec'd 02
List A B C D E

DOCKETED COPY OF ORIGINAL

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

FCC - MAIL ROOM

In the Matter of)
)
Inquiry into Policies and)
Programs to Assure Universal)
Telephone Service in a)
Competitive Market Environment)

RM 8388

REPLY COMMENTS OF THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

The Pennsylvania Public Utility Commission ("PaPUC") submits the following reply comments in this proceeding.

While the PaPUC has not had time to thoroughly examine all of MFS' proposals since MFS' Petition was filed, and thus, takes no position on MFS' substantive proposals at this time, like many parties submitting initial comments in this proceeding, the PaPUC supports a comprehensive review of the concept of universal service and issues related to its continuation and expansion. The PaPUC also strongly supports the use of a NOI for this purpose.

I. The PaPUC Supports A Comprehensive Evaluation of Universal Service.

The PaPUC agrees that "universal service is undoubtedly the single most significant public policy issue" that the Federal Communications Commission ("FCC") and state commissions will face in the future. The assurance of universal service is one of the FCC's and states' most significant public service responsibilities.

Recent filings with the FCC, along with the findings of the FCC's own Access Reform Task Force, underscore the need for a comprehensive evaluation of current Universal Service Fund ("USF") rules.

Universal service issues have been raised in at least five filings or proceedings, in addition to the MFS Petition, currently pending before the Commission including the National Association of Regulatory Utility Commissioners ("NARUC") Request for a Notice of Inquiry Concerning Access Charges¹, the United States Telephone Association's ("USTA") Petition for Rulemaking on Access Charge Reform, Ameritech's Petition for Declaratory Ruling regarding its Customer's First Plan, the FCC's Access Reform Task Force's Perspectives on Access Charge Reform, and the recent Joint Board proceedings in Docket 80-286. Many of these filings raise important universal service concerns and suggest that a comprehensive review is now necessary.

Additionally, many of the initial comments submitted in this proceeding also support a comprehensive review of universal service.² Together, these filings and the MFS Petition raise many vital universal service issues which will require resolution in the

¹The PaPUC also concurs in NARUC's recently adopted resolution (Convention Floor Resolution No. 5 adopted at the NARUC 1993 Annual Convention in New York) on Recent Initiatives to Consider Universal Service Policies in which NARUC again endorsed a comprehensive review of universal service issues.

²See, Initial Comments of GTE, Comments of the Bell Atlantic Telephone Companies, Initial Comments of Rochester Telephone Company, Comments of the United States Telephone Association.

near future.³ The Commission should not wait for competition to develop before addressing the important issues raised by these filings.

II. The FCC Should Comprehensively Examine All Universal Service Issues in One Proceeding, However, If This Is Not Feasible, The NOI Requested By MFS Would Not Be Duplicative of or Delay Existing Proceedings.

The PaPUC believes that review of universal service issues in one proceeding is desirable and would be most expedient. Thus, to the extent that existing proceedings are too limited in scope for a thorough examination of this issue, the Commission should consider expanding the scope of these proceedings (i.e., Docket 80-286) to allow for the examination of all USF issues in a comprehensive fashion.

In the event a comprehensive review of the rules is not contemplated in Docket 80-286, the FCC should initiate a comprehensive evaluation as requested for the following reasons.⁴ First, as already discussed, recent filings at the FCC indicate a need for a comprehensive evaluation at this time. Second, drastic

³NARUC points out in its recent Convention Floor Resolution No. 5 that the MFS Petition does not address several universal service issues identified by NARUC in its Request for a NOI Concerning Access Charges. Additionally, MFS does not address issues raised in several of the other filings currently before the FCC. The procedural mechanism utilized by the FCC to undertake a comprehensive review of universal service should allow for the inclusion of these other issues as well.

⁴While the FCC indicated its intent to "pursue a rulemaking on a broad spectrum of USF issues" in Docket 80-286, like MFS, it is the PaPUC's understanding that this Docket will address issues relating primarily to the high cost fund and not in the comprehensive fashion requested in several filings currently pending at the FCC.

changes to the Commission's current rules will in all likelihood have to be accomplished in stages or through use of a transition mechanism and thus several inquiries or proceedings on this matter may be required. Thus, the use of existing proceedings, i.e. Docket 80-286 to make initial changes in conjunction with a separate comprehensive NOI as MFS and others have suggested would not be duplicative and may ultimately provide for a more measured examination and transitioned evolution to final rules to accommodate an increasingly competitive marketplace.

However, because of the complexity and interdependence of the issues requiring resolution and the length of time a comprehensive evaluation is likely to take, the PaPUC believes that the FCC, to the extent feasible, should comprehensively address all universal service issues in one proceeding.

In any event, the FCC should make liberal use of the NOI process in all future proceedings addressing universal service issues.

III. The PaPUC Supports the Collaborative Process Which Only a NOI Affords.

As already noted, issues relating to universal service have been raised in at least five other proceedings currently pending before the FCC. Additionally, the National Telecommunications and Information Administration's ("NTIA") recent paper entitled The National Information Infrastructure: The Administration's Agenda for Action, has stated policies for continuing and expanding the goal of universal service and the NTIA has recently initiated forums to explore these issues. NARUC and

state policy makers also continue to extensively examine this issue both individually and collaboratively. Like NARUC, the PaPUC endorses the use of a collaborative process wherein all interested parties may address and refine the concept of and issues relating to universal service.⁵

A NOI would allow for input by all interested parties as well as provide a procedural vehicle to collectively examine the various initiatives on this issue. It would also provide the basis for a comprehensive record on USF issues before concrete and drastic changes are proposed to the Commission's existing rules.

It is critical that the Commission allow for input by all parties on the various proposals and that a comprehensive record be established on these issues prior to commencing a rulemaking containing major changes to the rules. A NOI is the best and only means in which to accomplish this. The PaPUC agrees with most parties that competition and universal service can coexist only if carefully crafted rules are in place preserving this most important social policy goal.

The PaPUC believes that these issues are far too critical and complex to handle in either a customized manner⁶ or for the FCC to proceed immediately to rulemaking based upon the agenda of one participant.⁷

⁵See, NARUC Convention Floor Resolution No. 5.

⁶See, Petition of Ameritech for a Declaratory Ruling Concerning its Customer First Plan.

⁷See, Petition of USTA for a Rulemaking On Access Charge Reform.

Because of the complexity of the issues to be addressed, the PaPUC also supports MFS' Petition to the extent it advocates the handling of USF issues in a separate proceeding. The FCC itself has acknowledged that any proceeding on the USF issue is likely to be extremely complex and time-consuming, and thus, has itself undertaken to examine the USF issues independent of other related issues.⁸

IV. The FCC Should Not Make Future Changes to The Existing USF Rules in a Vacuum.

MFS and several other parties suggest that other contribution elements in addition to the USF, both implicit and explicit, must also be reexamined.

While the PaPUC believes, in accordance with the initial comments of several parties, that MFS greatly oversimplifies the nature and need for these existing support mechanisms, the PaPUC agrees that major changes to the USF should not be made in a vacuum. Before making drastic changes to the USF, the FCC must take into account any contemplated changes to the other implicit or explicit support mechanisms discussed by various parties.

Additionally, while the PaPUC believes that the rules ultimately adopted should attempt to establish parity among similarly situated market participants, the PaPUC agrees that future support mechanisms and rules must recognize additional

⁸See, In the Matter of Amendment of Part 36 of The Commission's Rules and Establishment of a Joint Board, Notice of Proposed Rulemaking, CC Docket No. 80-286, released September 14, 1993.

obligations of any providers.⁹

V. An En Banc Hearing Is Not Necessary At This Time.

The PaPUC agrees with the majority of parties that scheduling an en banc hearing at this time would be counterproductive. If the Commission proceeds with a comprehensive evaluation of the USF rules, it should allow ample opportunity for written comment on the issue and schedule an en banc hearing only if necessary after the FCC reviews the written comments submitted on this issue. The PaPUC believes that under the procedure suggested by MFS, an en banc hearing would merely be duplicative of the written comments submitted by interested parties, and would not produce any additional insight or benefits. Additionally, as pointed out by at least one commenter in this proceeding, a hearing is likely to introduce significant and unnecessary delay into the process. The PaPUC believes that such a hearing may be beneficial, however, if after written comments are submitted, certain issues are identified for further discussion or comment.

VI. Conclusion

The PaPUC supports MFS' Petition for a NOI concerning the Universal Service Fund. The PaPUC believes that a comprehensive evaluation of the existing Universal Service Fund rules is necessary to accommodate increased competition in the local access market. Since it would be desirable and most expedient to address

⁹See, Comments of Bell Atlantic, p. 6; GTE Comments, p. 8 ("This provider-of-last-resort requirement results in higher average costs for the LEC than would occur if the exchange carrier were able to respond to market needs in only limited areas".)

all USF issues in one proceeding, the Commission should expand the scope of existing proceedings to the extent necessary to accommodate a comprehensive inquiry into all USF issues. If this is not feasible, the Commission should begin a new comprehensive proceeding as requested by MFS recognizing that any drastic changes will necessitate transition mechanisms to accomplish a measured evolution in this regard, which in itself may require more than one proceeding on this issue. Finally, the Commission should refrain from making drastic changes to its rules without providing a procedural mechanism such as the NOI to recognize and take into account all of the important and continuing initiatives on universal service at both the state and federal levels.

Respectfully submitted,


Maureen A. Scott
Assistant Counsel

Veronica A. Smith
Deputy Chief Counsel

John A. Povilaitis
Chief Counsel

Counsel for the Pennsylvania
Public Utility Commission

P.O. Box 3265
G-28 North Office Building
Harrisburg, Pennsylvania 17012-3265

Dated: January 3, 1994.

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was served this 3rd day of January, 1994, by mailing a copy thereof by first-class mail, postage prepaid, to the following:

Andrew D. Lipman
Russell M. Blau
Swidler & Berlin
3000 K Street, N.W.
Washington, D.C. 20007

Peggy Reitzel
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 544
Washington, D.C. 20554

International Transcription Services, Inc.
1919 M Street, N.W.
Room 246
Washington, D.C. 20554

Downtown Copy Center
1990 M Street, N.W.
Suite 640
Washington, D.C. 20036


Maureen A. Scott